

AMENDED IN ASSEMBLY AUGUST 1, 2016

AMENDED IN ASSEMBLY JUNE 16, 2016

**SENATE BILL**

**No. 564**

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**Introduced by Senator Cannella**

February 26, 2015

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An act to amend Section 10723 of the Water Code, and to create the West Kings Groundwater Sustainability Agency, and prescribing its boundaries, organization, operation, management, financing, and other powers and duties, relating to water districts.

LEGISLATIVE COUNSEL'S DIGEST

SB 564, as amended, Cannella. West Kings Groundwater Sustainability Agency Act.

Existing law, the Sustainable Groundwater Management Act, requires all groundwater basins designated as high- or medium-priority basins by the Department of Water Resources that are designated as basins subject to critical conditions of overdraft to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2020, and requires all other groundwater basins designated as high- or medium-priority basins to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2022, except as specified. *The act authorizes any local agency or combination of local agencies overlying a groundwater basin to decide to become a groundwater sustainability agency for that basin. The act deems certain agencies created by statute to manage groundwater the exclusive local agencies within their respective statutory boundaries with powers to comply with the act and authorizes these agencies to opt out of being the exclusive groundwater management agency.*

This bill would create the West Kings Groundwater Sustainability Agency, would establish the initial boundaries of the agency, and would authorize the agency's boundaries to be changed by the boards of supervisors of the Counties of Fresno and Kings after a noticed public hearing. The bill would require the agency to elect to be a groundwater sustainability agency under the Sustainable Groundwater Management Act for that portion of the Kings Subbasin that lies within the boundaries of the agency and would require the agency to develop and implement a groundwater sustainability plan to achieve sustainable groundwater management within the territory of the agency. The bill would generally specify the powers and purposes of the agency. The bill would prescribe the composition of the 7-member board of directors of the agency and would require members and alternates to be chosen by certain member agencies, as specified. By imposing duties on the agency and the member agencies, the bill would impose a state-mandated local program. *The bill would deem the West Kings Groundwater Sustainability Agency the exclusive local agency with powers to comply with the Sustainable Groundwater Management Act.*

*This bill would incorporate additional changes to Section 10723 of the Water Code proposed by both this bill and SB 37 to become operative only if both bills are enacted and become effective before January 1, 2017, and this bill is chaptered last.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. This act shall be known and may be cited as the
- 2 West Kings Groundwater Sustainability Agency.

West Kings Groundwater Sustainability Agency

Article 1. Findings and Declarations

101. The Legislature hereby finds and declares that the preservation of the groundwater resources within the territory of the agency for agricultural, municipal, and industrial uses is in the public interest and that the creation of the agency pursuant to this act is for the common benefit of water users.

102. The Legislature further finds and declares that the groundwater management activities of the agency benefit all operators of groundwater extraction facilities within the territory of the agency.

103. The Legislature further finds and declares that circumstances in the territory of the agency to be formed hereby, which may not exist in other locations, justify the formation of the agency and the grant of powers contained in this act. The territory of the agency to be formed hereby includes vast areas of the nation's top farm producing lands and places that have been designated by the State of California as disadvantaged communities disproportionately impacted by air quality and socioeconomic burdens. There are a number of scattered small public and private water entities in the territory of the agency that do not have the staff or resources to otherwise form a groundwater sustainability agency. These entities agree the territory is best served by a single dedicated agency to manage the groundwater resources.

Article 2. Creation and Purposes

201. (a) A groundwater management agency is hereby created in the Counties of Fresno and Kings to be known as the West Kings Groundwater Sustainability Agency.

(b) The agency shall be governed by a board as specified in Section 501 and shall have the boundaries specified in Section 301. The agency shall only exercise the powers granted by this act and the Sustainable Groundwater Management Act (Part 2.74 (commencing with Section 10720) of Division 6 of the Water Code) for purposes of groundwater management within the boundaries of the agency, together with any other powers as are reasonably implied, necessary, and proper to carry out the

1 objectives and purposes of the agency to implement the Sustainable  
2 Groundwater Management Act. The agency shall abide by the  
3 rules and regulations promulgated by the Department of Water  
4 Resources and the State Water Resources Control Board to  
5 implement the Sustainable Groundwater Management Act.

6  
7 Article 3. Boundaries

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9 301. For purposes of this act, the initial boundaries of the  
10 agency shall be as follows:

11 Beginning at the intersection of the southwestern boundary of  
12 Raisin City Water District (Raisin City WD) and Highway 145,  
13 the North Fork Groundwater Sustainability Agency Boundary  
14 (Boundary) follows Highway 145 southwest to the southern  
15 boundary of Reclamation District 1606 (RD 1606). It then follows  
16 the southern boundaries of RD 1606 and James Irrigation District  
17 (James ID) to the intersection of the James ID boundary with the  
18 Kings Subbasin boundary. Then, it follows said subbasin boundary  
19 south and east to its intersection with the southwestern boundary  
20 of Consolidated Irrigation District (Consolidated ID). The  
21 Boundary then continues north and west following the southern  
22 Consolidated ID boundary and the southern and western Raisin  
23 City WD boundaries to the point of beginning.

24 302. The agency's initial boundaries shall be established by  
25 the boards of supervisors of the Counties of Fresno and Kings after  
26 a noticed public hearing. The boundaries shall be depicted on a  
27 map that shall be adopted by the boards of the supervisors of those  
28 counties and thereafter recorded in the office of the county recorder  
29 of each county.

30 303. The boards of supervisors of the Counties of Fresno and  
31 Kings may adjust the boundaries of the agency in the same manner  
32 prescribed for in establishment of the initial boundaries if the  
33 boundaries of the basin are revised, including the establishment  
34 of new subbasins.

35  
36 Article 4. Definitions

37  
38 401. Unless otherwise indicated by their context, the definitions  
39 set forth in this article govern the interpretation of this act.

1 402. “Actively and primarily engaged in production of  
2 agriculture” means that a person derives at least 75 percent of his  
3 or her annual income from production agriculture.

4 403. “Agency” means the West Kings Groundwater  
5 Sustainability Agency established by this act.

6 404. “Aquifer” means a geologic formation or structure that  
7 transmits water in sufficient quantities to supply pumping wells  
8 or springs.

9 405. “Basin” has the same meaning as defined in Section 10721  
10 of the Water Code.

11 406. “Board” means the board of directors of the agency, as  
12 more particularly described in Section 501.

13 407. “Coordination agreement” has the same meaning as  
14 defined in Section 10721 of the Water Code.

15 408. “County” means either the County of Fresno or the County  
16 of Kings, as the context requires. “Counties” means the County  
17 of Fresno and the County of Kings.

18 409. “Extraction” means the act of obtaining groundwater by  
19 pumping or other controlled means.

20 410. “Groundwater” has the same meaning as defined in  
21 Section 10721 of the Water Code.

22 411. “Groundwater management activities” means programs,  
23 measures, or actions taken to preserve, protect, and enhance  
24 groundwater resources within the territory of the agency.

25 412. “Kings Subbasin” means the San Joaquin Valley  
26 Groundwater Basin Kings Subbasin.

27 413. “Member” means any person or entity entitled to  
28 representation on the agency’s board of directors as specified in  
29 Section 501.

30 414. “Operator” has the same meaning as defined in Section  
31 10721 of the Water Code.

32 415. “Person” includes any state or local governmental agency,  
33 private corporation, firm, partnership, limited liability company,  
34 individual, group of individuals, or, to the extent authorized by  
35 law, any federal agency.

36 416. “Plan” means a groundwater sustainability plan prepared  
37 by the agency pursuant to this act.

38 417. “Supplemental water” means surface water or groundwater  
39 imported from outside the watershed or watersheds of the basin  
40 or aquifer and floodwaters that are conserved and saved within the

1 watershed or watersheds that would otherwise have been lost or  
2 would not have reached the basin or aquifer.

3  
4 Article 5. General Provisions  
5

6 501. (a) The agency shall be governed by a board of directors  
7 that shall consist of seven members, as follows:

8 (1) One member shall be chosen by the County of Fresno.  
9 (2) One member shall be a resident or landowner chosen by the  
10 members of the governing boards of the following entities:

11 (A) Clark's Fork Reclamation District.

12 (B) Laguna Irrigation District.

13 (C) Upper San Jose Water Company.

14 (3) One member shall be chosen by the member of the governing  
15 boards of the following special districts that provide drinking water,  
16 who shall be chosen from the members of the governing boards  
17 of the special districts:

18 (A) Laton Community Services District.

19 (B) Riverdale Public Utility District.

20 (4) One member shall be a resident or landowner chosen by the  
21 members of the governing boards of the following entities:

22 (A) Crescent Canal Company.

23 (B) Stinson Canal and Irrigation Company.

24 (5) One member shall be a resident or landowner chosen by the  
25 members of the governing boards of the following entities:

26 (A) Burrel Ditch Company.

27 (B) Liberty Canal Company.

28 (6) One member shall be a resident or landowner chosen by the  
29 members of the governing boards of the following entities:

30 (A) Liberty Mill Race Company.

31 (B) Reed Ditch Company.

32 (7) One member shall be chosen by the members of the  
33 governing boards of the following special districts, who shall be  
34 chosen from the members of the governing boards of the special  
35 districts:

36 (A) Liberty Water District.

37 (B) Riverdale Irrigation District.

38 (b) There shall be an alternate for each board member, chosen  
39 in the same manner and by the same entities as the board member.

40 The alternate member shall act in place of the board member he

1 or she is an alternate for in case of that board member's absence  
2 or inability to act.

3 502. The members shall serve for a four-year term of office.  
4 A member may serve for more than one term of office.

5 503. (a) The board may adopt an ordinance to provide  
6 compensation to members of the board in an amount not to exceed  
7 one hundred dollars (\$100) per day for each day's attendance at  
8 meetings of the board or for each day's service rendered as a  
9 member of the board by request of the board. For purposes of this  
10 section, the determination of whether a board member's activities  
11 on any specific day are compensable shall be made pursuant to  
12 Article 2.3 (commencing with Section 53232) of Chapter 2 of Part  
13 1 of Division 2 of Title 5 of the Government Code.

14 (b) Reimbursement for expenses of members of the board is  
15 subject to Sections 53232.2 and 53232.3 of the Government Code.

16 (c) The board may adopt an ordinance to increase the  
17 compensation received by members of the board above the amount  
18 of one hundred dollars (\$100) per day. The increase shall not  
19 exceed an amount equal to 5 percent, for each calendar year  
20 following the operative date of the last adjustment, of the  
21 compensation that is received when the ordinance is adopted.

22 (d) A board member shall not be compensated for more than a  
23 total of 10 days in any calendar month.

24 504. (a) The board may adopt ordinances for the purpose of  
25 regulating, conserving, managing, and controlling the use and  
26 extraction of groundwater within the territory of the agency.

27 (b) An ordinance adopted by the board shall become effective  
28 30 days from the date of its passage.

29 (c) All ordinances shall be adopted at noticed, public hearings  
30 by a majority vote of the board. No ordinance shall be adopted by  
31 the board except at a public hearing. Notice of the hearing shall  
32 be published in a newspaper of general circulation pursuant to  
33 Section 6066 of the Government Code.

34 (d) The board shall provide notice of the adoption of all  
35 ordinances.

36 505. No provision of this act shall be construed as denying to  
37 any member agency any rights or powers that they already have  
38 or that they may be granted.

1 506. The agency may contract with member entities for staff  
2 and other services. The agency may hire contractors and consultants  
3 as it considers appropriate.

4 507. The agency shall enter into a coordination agreement with  
5 other local agencies for purposes of coordinating the agency's plan  
6 with other agencies or groundwater sustainability plans within the  
7 Kings Subbasin as required by the Sustainable Groundwater  
8 Management Act (Part 2.74 (commencing with Section 10720) of  
9 Division 6 of the Water Code).

10 508. The agency may exclude from any of the requirements of  
11 this act, or the operation of any ordinance, any operator who  
12 annually extracts less than a minimum amount of groundwater as  
13 specified by an ordinance adopted by the board.

#### 14 15 Article 6. Studies and Investigations

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17 601. The agency may collect data and conduct technical and  
18 other investigations of all kinds in order to carry out the provisions  
19 of this act. All hydrological investigations and studies carried out  
20 by or on behalf of the agency shall be constructed by or under the  
21 supervision of licensed engineers or other persons qualified in  
22 groundwater geology or hydrology.

23 602. The agency may recommend and encourage water  
24 recycling, stormwater capture, and other water development  
25 projects, where those projects will enhance and contribute to the  
26 responsible management of groundwater resources, as part of its  
27 annual plan for implementation of groundwater management  
28 objectives.

#### 29 30 Article 7. Sustainable Groundwater Management Powers

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32 701. The agency shall develop and implement a groundwater  
33 sustainability plan pursuant to Chapter 6 (commencing with Section  
34 10727) of Part 2.74 of Division 6 of the Water Code to achieve  
35 sustainable groundwater management within the territory of the  
36 agency.

37 702. The agency shall elect to be a groundwater sustainability  
38 agency pursuant to Chapter 4 (commencing with Section 10723)  
39 of Part 2.74 of Division 6 of the Water Code for that portion of  
40 the Kings Subbasin that lies within the boundaries of the agency.



1 703. The agency may exercise any of the powers described in  
2 Chapter 5 (commencing with Section 10725) of Part 2.74 of  
3 Division 6 of the Water Code and the enforcement powers  
4 described in Chapter 9 (commencing with Section 10732) of Part  
5 2.74 of Division 6 of the Water Code.

6 704. The availability of supplemental water to any operator  
7 shall not subject that operator to regulations that are more  
8 restrictive than those imposed on other operators.

9  
10 Article 8. Fee Authority  
11

12 801. Pursuant to Chapter 8 (commencing with Section 10730)  
13 of Part 2.74 of Division 6 of the Water Code, the agency may  
14 impose fees, including, but not limited to, permit fees and fees on  
15 groundwater extraction or other regulated activity, to fund the costs  
16 of a groundwater sustainability program, that include, but are not  
17 limited to, the preparation, adoption, and amendment of a  
18 groundwater sustainability plan, investigations, inspections,  
19 compliance assistance, enforcement, and program administration,  
20 including a prudent reserve.

21 SEC. 2. Section 10723 of the Water Code is amended to read:

22 10723. (a) Except as provided in subdivision (c), any local  
23 agency or combination of local agencies overlying a groundwater  
24 basin may decide to become a groundwater sustainability agency  
25 for that basin.

26 (b) Before deciding to become a groundwater sustainability  
27 agency, and after publication of notice pursuant to Section 6066  
28 of the Government Code, the local agency or agencies shall hold  
29 a public hearing in the county or counties overlying the basin.

30 (c) (1) Except as provided in paragraph (2), the following  
31 agencies created by statute to manage groundwater shall be deemed  
32 the exclusive local agencies within their respective statutory  
33 boundaries with powers to comply with this part:

34 (A) Alameda County Flood Control and Water Conservation  
35 District, Zone 7.

36 (B) Alameda County Water District.

37 (C) Desert Water Agency.

38 (D) Fox Canyon Groundwater Management Agency.

39 (E) Honey Lake Valley Groundwater Management District.

40 (F) Long Valley Groundwater Management District.

1 (G) Mendocino City Community Services District.

2 (H) Mono County Tri-Valley Groundwater Management  
3 District.

4 (I) Monterey Peninsula Water Management District.

5 (J) Ojai Groundwater Management Agency.

6 (K) Orange County Water District.

7 (L) Pajaro Valley Water Management Agency.

8 (M) Santa Clara Valley Water District.

9 (N) Sierra Valley Groundwater Management District.

10 (O) West Kings Groundwater Sustainability Agency.

11 (P) Willow Creek Groundwater Management Agency.

12 (2) An agency identified in this subdivision may opt out of being  
13 the exclusive groundwater management agency within its statutory  
14 boundaries by sending a notice to the department, which shall be  
15 posted on the department's Internet Web site within 15 days of  
16 receipt. If an agency identified in paragraph (1) opts out of being  
17 the exclusive groundwater management agency, any other local  
18 agency or combination of local agencies operating within the  
19 statutory boundaries of the agency that has opted out may notify  
20 the department pursuant to Section 10723.8 of its decision to be  
21 the groundwater sustainability agency.

22 (3) A local agency listed in paragraph (1) may comply with this  
23 part by meeting the requirements of Section 10733.6 or opting to  
24 become a groundwater sustainability agency pursuant to this  
25 section. A local agency with authority to implement a basin-specific  
26 management plan pursuant to its principal act shall not exercise  
27 any authorities granted in this part in a manner inconsistent with  
28 any prohibitions or limitations in its principal act unless the  
29 governing board of the local agency makes a finding that the  
30 agency is unable to sustainably manage the basin without the  
31 prohibited authority.

32 (d) The decision of a local agency or combination of agencies  
33 to become a groundwater sustainability agency shall take effect  
34 as provided in Section 10723.8.

35 *SEC. 2.5. Section 10723 of the Water Code is amended to read:*

36 10723. (a) Except as provided in subdivision (c), any local  
37 agency or combination of local agencies overlying a groundwater  
38 basin may decide to become a groundwater sustainability agency  
39 for that basin.

1 (b) Before deciding to become a groundwater sustainability  
2 agency, and after publication of notice pursuant to Section 6066  
3 of the Government Code, the local agency or agencies shall hold  
4 a public hearing in the county or counties overlying the basin.

5 (c) (1) Except as provided in paragraph (2), the following  
6 agencies created by statute to manage groundwater shall be deemed  
7 the exclusive local agencies within their respective statutory  
8 boundaries with powers to comply with this part:

9 (A) Alameda County Flood Control and Water Conservation  
10 District, Zone 7.

11 (B) Alameda County Water District.

12 (C) Desert Water Agency.

13 (D) Fox Canyon Groundwater Management Agency.

14 (E) Honey Lake Valley Groundwater Management District.

15 (F) *Kings River East Groundwater Sustainability Agency.*

16 ~~(F)~~

17 (G) Long Valley Groundwater Management District.

18 ~~(G)~~

19 (H) Mendocino City Community Services District.

20 ~~(H)~~

21 (I) Mono County Tri-Valley Groundwater Management District.

22 ~~(I)~~

23 (J) Monterey Peninsula Water Management District.

24 ~~(J)~~

25 (K) Ojai Groundwater Management Agency.

26 ~~(K)~~

27 (L) Orange County Water District.

28 ~~(L)~~

29 (M) Pajaro Valley Water Management Agency.

30 ~~(M)~~

31 (N) Santa Clara Valley Water District.

32 ~~(N)~~

33 (O) Sierra Valley Groundwater Management District.

34 (P) *West Kings Groundwater Sustainability Agency.*

35 ~~(P)~~

36 (Q) Willow Creek Groundwater Management Agency.

37 (2) An agency identified in this subdivision may opt out of being  
38 the exclusive groundwater management agency within its statutory  
39 boundaries by sending a notice to the department, which shall be  
40 posted on the department's Internet Web site within 15 days of

1 receipt. If an agency identified in paragraph (1) opts out of being  
2 the exclusive groundwater management agency, any other local  
3 agency or combination of local agencies operating within the  
4 statutory boundaries of the agency that has opted out may notify  
5 the department pursuant to Section 10723.8 of its decision to be  
6 the groundwater sustainability agency.

7 (3) A local agency listed in paragraph (1) may comply with this  
8 part by meeting the requirements of Section 10733.6 or opting to  
9 become a groundwater sustainability agency pursuant to this  
10 section. A local agency with authority to implement a basin-specific  
11 management plan pursuant to its principal act shall not exercise  
12 any authorities granted in this part in a manner inconsistent with  
13 any prohibitions or limitations in its principal act unless the  
14 governing board of the local agency makes a finding that the  
15 agency is unable to sustainably manage the basin without the  
16 prohibited authority.

17 (d) The decision of a local agency or combination of agencies  
18 to become a groundwater sustainability agency shall take effect  
19 as provided in Section 10723.8.

20 *SEC. 3. Section 2.5 of this bill incorporates amendments to*  
21 *Section 10723 of the Water Code proposed by both this bill and*  
22 *Senate Bill 37. It shall only become operative if (1) both bills are*  
23 *enacted and become effective on or before January 1, 2017, (2)*  
24 *each bill amends Section 10723 of the Water Code, and (3) this*  
25 *bill is enacted after Senate Bill 37, in which case Section 2 of this*  
26 *bill shall not become operative.*

27 ~~SEC. 3.~~

28 *SEC. 4.* No reimbursement is required by this act pursuant to  
29 Section 6 of Article XIII B of the California Constitution because  
30 a local agency or school district has the authority to levy service  
31 charges, fees, or assessments sufficient to pay for the program or  
32 level of service mandated by this act, within the meaning of Section  
33 17556 of the Government Code.